

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ROSS MITCHELL, and BLANCA
MITCHELL,

Plaintiffs/Counter Defendants,

vs.

PATHE DIALLO, WERNER
ENTERPRISES, INC., WERNER
TRANSPORTATION, INC., GRA-GAR,
LLC, WERNER GLOBAL LOGISTICS,
INC., WERNER GLOBAL LOGISTICS,
U.S., LLC, WERNER LEASING, LLC,
WERNER MANAGEMENT, INC.,

Defendants/Counter Claimants,

and

PHILLIPS MANUFACTURING, CO.,
PHILLIPS MANUFACTURING CO. OF
OHIO, LLC, and PHILLIPS REALTY,
LLC,

Defendants.

8:19CV570

AMENDED
CASE PROGRESSION ORDER

This matter comes before the Court following a planning conference held on December 10, 2021, and on the Plaintiffs' Unopposed Motion to Extend Case Progression Deadlines ([Filing No. 86](#)). After review of the parties' motion and after consultation with the parties during the planning conference the Court finds good cause to grant the requested extensions. Accordingly,

IT IS ORDERED that the Plaintiffs' Unopposed Motion to Extend Case Progression Deadlines ([Filing No. 86](#)) is granted, and the case progression order is amended as follows:

- 1) The deadlines for identifying expert witnesses and completing expert disclosures¹ for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiffs:

February 28, 2022

For the defendants:

April 15, 2022

¹ While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

- 2) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is **May 16, 2022**. The maximum number of depositions that may be taken by the plaintiffs as a group and the defendants as a group is **fifteen (15)**.
- 3) The trial and pretrial conference will not be set at this time. A planning conference to discuss case progression, dispositive motions, the parties' interest in settlement, and the trial and pretrial conference settings will be held with the undersigned magistrate judge on **May 16, 2022, at 10:00 a.m. CDT** by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference. ([Filing No. 67](#))
- 4) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is **May 31, 2022**.
- 5) The deadline for filing motions to dismiss and motions for summary judgment is **June 30, 2022**.
- 6) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 7) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 10th day of December, 2021.

BY THE COURT:

s/Michael D. Nelson
United States Magistrate Judge

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